

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI**

|   |   |                          |
|---|---|--------------------------|
| <b>VELVET MAXWELL and SHOSHANA</b>          | ) |                          |
| <b>MAXWELL, heirs-at-law of Norman</b>      | ) |                          |
| <b>Maxwell, Deceased,</b>                   | ) |                          |
|   | ) |                          |
| <b>Plaintiffs,</b>                          | ) | <b>Case No.:</b>         |
|   | ) |                          |
| <b>v.</b>                                   | ) | <b>NOTICE OF REMOVAL</b> |
|   | ) | <b>CIVIL ACTION</b>      |
| <b>BREEZY OPERATIONS, LLC d/b/a</b>         | ) |                          |
| <b>Butler Center for Rehabilitation and</b> | ) |                          |
| <b>Healthcare,</b>                          | ) |                          |
|   | ) |                          |
| <b>Defendant.</b>                           | ) |                          |

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TO: The Clerk of the above-entitled court and  
all parties and their attorneys of record

PLEASE TAKE NOTICE that defendant Breezy Operations, LLC d/b/a Butler Center for Rehabilitation and Healthcare, which is not a citizen of the state of Missouri, hereby removes the above-entitled action from the Circuit Court of Bates County, Missouri to the United States District Court for the Western District of Missouri, reserving all affirmative defenses. In support of their removal, Defendant Breezy respectfully states:

1. Plaintiffs Velvet Maxwell and Shoshana Maxwell filed their Petition for Damages on or about August 10, 2022, commencing an action styled Velvet Maxwell and Shoshana Maxwell, heirs-at-law of Norman Maxwell, Deceased v. Breezy Operations, LLC d/b/a Butler Center for Rehabilitation and Healthcare, Case No. 22BS-CC00025 in the Circuit Court of Bates County, Missouri. A true copy of that Petition is attached hereto as Exhibit A. In their action, Plaintiffs seek damages for the injuries and alleged wrongful death of Norman Maxwell from his time as a patient/resident at the skilled nursing licensed by Breezy Operations, LLC. *See Exhibit A.* Plaintiffs seek recovery of their alleged injuries, including pecuniary losses, medical, hospital,

and funeral expenses, loss of consortium, as well as other costs associated with this suit. *See Exhibit A.*

2. Defendant received “through service or otherwise” a copy of the Plaintiffs’ Summons and Petition on August 24, 2022, when its registered agent and was served. A true copy of the Summons issued to the Defendant is attached as Exhibit B. Exhibits A and B constitute all of the matters sent to or served on the Defendant in this action.

3. Plaintiff Velvet Maxwell is a citizen of the State of Nevada. *See Exhibit A.*

4. Plaintiff Shoshana Maxwell is a citizen of the State of Oregon. *See Exhibit A.*

5. Defendant Breezy Operations, LLC is a limited liability company. At all relevant times: Breezy Operations, LLC has 11 members that hold all of its membership interests. All of these members are either non-Missouri citizens or made up of members who themselves are not residents of the State of Missouri.

6. This civil action is properly removable to the United States District Court for the Western District of Missouri based on the facts enumerated herein, including:

a. This action is a civil action of which the Court has original jurisdiction under 28 U.S.C. § 1332(a)(1) and may be removed to this Court pursuant to 28 U.S.C. § 1441, in that it is a civil action between citizens of different states with the amount in controversy exceeding the sum of \$75,000.00, exclusive of costs.

b. Both at the time of this removal as well as at the time the Petition was filed, Plaintiff Velvet Maxwell was a resident of the State of Nevada and Plaintiff Shoshana was a resident of the State of Oregon. *See Exhibit A.*

c. Both at the time of this removal as well as at the time the Petition was filed, Defendant was a citizen of a state other than Missouri, as noted above.

d. With respect to the amount in controversy, Plaintiffs seek to recover compensatory damages for alleged injuries, including pecuniary losses, medical hospital and funeral expenses, loss of consortium, and also seek other damages. *See Exhibit A.* Given the nature of plaintiffs' claims and the alleged damages sought, Defendant understands and believes that the amount in controversy necessarily exceeds \$75,000.00. *See Exhibit A.* Although Defendant disputes the existence, nature, and extent of Plaintiffs' alleged injuries and/or damages, the Plaintiff's allegations must nonetheless be taken into account for purposes of determining the amount in controversy.

e. This Notice of Removal was filed with this Court within thirty days of Defendant having received "through service or otherwise" a copy of the initial pleading set forth the claim for relief upon which such action or proceeding is based, as provided by 28 U.S.C. § 1446(b).

7. A true copy of the Notice of Removal is being concurrently filed with the Clerk of the Circuit Court of Bates County, Missouri, as provided by law, and will be concurrently served upon all parties.

WHEREFORE, Defendant Breezy Operations, LLC d/b/a Butler Center for Rehabilitation and Healthcare respectfully requests that this action be removed to the United States District Court for the Western District of Missouri.

Dated this 23<sup>rd</sup> day of September, 2022.

Respectfully submitted,

/s/ Richard M. Acosta  
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**Attorneys for Defendant Breezy  
Operations, LLC d/b/a Butler Center  
For Rehabilitation and Healthcare**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the forgoing document was filed with this Court using the Court's electronic filing system on this 23<sup>rd</sup> day of September, 2022 and emailed to counsel below:

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